

**EXHIBIT 9 TO THE DECLARATION OF  
CHRISTINA BROWN FILED IN SUPPORT  
OF DEFENDANTS' OPPOSITION TO  
SUPPLEMENTAL CLASS  
CERTIFICATION MOTION  
(ECF NO. 446)**

**REDACTED**

1 IN THE UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA  
3 SAN JOSE DIVISION  
4 IN RE: HIGH-TECH EMPLOYEE ANTITRUST  
LITIGATION  
5 THIS DOCUMENT RELATES TO: NO: Master Docket No.  
11-CV-2509-LHK  
6 ALL ACTIONS.  
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10 CONFIDENTIAL - ATTORNEYS' EYES ONLY  
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12  
13 VIDEOTAPED DEPOSITION OF DANIEL ROBERT MCKELL  
March 20, 2013  
14 10:06 a.m.  
15 Hyatt Regency Hotel  
330 Tijeras, Northwest  
Albuquerque, New Mexico  
16  
17 PURSUANT TO THE FEDERAL RULES OF CIVIL  
PROCEDURE, this deposition was:  
18  
19 TAKEN BY: MR. SARAH R. SCHALMAN-BERGEN  
Attorney for Plaintiffs  
20  
21 REPORTED BY: Mary Abernathy Seal, RDR, CRR, NM CCR 69  
Bean & Associates, Inc.  
22 Professional Court Reporting Service  
201 Third Street, Northwest, Suite 1630  
Albuquerque, New Mexico 87102  
23  
24 (6941K) MAS  
25

03:42 1 Google to the list of peer companies?

2 A. Managers were asking, "Where is Google on  
3 the list?" I don't -- I think Google started in  
4 2004, maybe, something like that. So it became --  
5 03:42 it was relevant to managers, and so if you would  
6 say, "Our pay is competitive and Google wasn't on  
7 the list," they would be less trusting of your data  
8 than by seeing that Google was included.

9 Q. What's your understanding of why Google  
03:42 10 was relevant to managers?

11 MR. SHAH: Object to form.

12 A. They're part of the technology industry  
13 that we participate in in terms of -- how do we  
14 describe it -- line 23 and 24, the blend of  
15 03:43 semiconductor, software, networking, and diversified  
16 computer companies. So they were big enough, I  
17 guess, at that point that we viewed them as a  
18 relevant competitor for talent and products to be  
19 included.

20 Q. And why was Apple included on the list of  
21 competitors?

22 MR. SHAH: Object to form.

23 A. Same reason. We compete with them for  
24 products and for talent, so it's important to have  
03:43 25 their data in the salary surveys that we participate

03:43 1 in.

2 Q. If you look through paragraph 8 -- do you  
3 see that?

4 A. Yeah.

03:44 5 Q. Is paragraph 8, to the best of your  
6 knowledge, true and accurate?

7 A. Yes.

8 Q. Okay. And looking at the first sentence  
9 about employee evaluations, does that reflect or is  
03:44 10 that consistent with the conversation we've had this  
11 morning about employee ratings?

12 A. Yes, those are the guidelines or the  
13 expectations, the actual practices plus or minus  
14 those.

03:45 15 Q. And the expectations are that there are  
16 certain percentages of employees that are rated in  
17 each of the different categories?

18 A. Yes.

19 Q. The last sentence of paragraph 8 you talk  
03:45 20 about a [REDACTED]. Do you  
21 see that?

22 A. Yes.

23 Q. Can you briefly describe what you mean by  
24 that?

03:45 25 A. So companies -- or as a compensation

03:45 1 practice, there's two main ways that you can deal  
2 with different job markets within the same country.  
3 You can establish separate market ranges for those  
4 locations, or you can apply a geographical  
03:45 5 differential, a premium on top of salary ranges.

6 Intel prefers to [REDACTED]

7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
03:46 10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]

14 Q. If you go to paragraph 9, do you see that?

03:46 15 A. Uh-huh. Yes.

16 Q. Fair to say in paragraph 9 you're talking  
17 about the wide ranges of total pay available within  
18 each grade?

19 A. Yes.

03:47 20 Q. Is everything in this paragraph accurate?

21 A. I was looking at page 19 of Exhibit D.  
22 That's page 20.

23 Q. And for the record, we're looking at  
24 Exhibit D, and you have said that actually, the  
03:47 25 salary ranges you were referring to are listed on

03:47 1 page 20 of that document?

2 A. Right.

3 Q. Besides the difference in page number --

4 A. But yeah, the other is right; correct.

03:48 5 Q. Looking at page 20 for a second, which is

6 Bates number 76583DOC002007\_000020, is this an

7 accurate listing of the US salary ranges effective

8 January 1, 2007, at Intel?

9 MR. SHAH: Object to form.

03:48 10 A. I believe so.

11 Q. And does this list all of the different  
12 grades?

13 A. No, it does not.

14 Q. So there are additional grades that are  
03:48 15 not included in these salary ranges?

16 A. That's correct.

17 Q. Where are the salary ranges or the grades  
18 maintained within Intel?

19 MR. SHAH: Object to form.

03:48 20 A. The salary ranges are housed in the system  
21 of records. GENI is the internal name.

22 Q. And as we discussed earlier, all of the  
23 salary ranges are not available to employees who  
24 don't work in compensation or HR; is that accurate?

03:49 25 A. That's right.

04:24 1 Q. Are you familiar with the first bullet  
2 point?

3 A. I'm not.

4 Q. Okay. Turn to page 26 of that exhibit.

04:24 5 It has a Bates stamp ending in 7712.

6 A. Okay.

7 Q. You see this slide is titled "focal budget  
8 strategy." Do you see that?

9 A. Yes.

04:24 10 Q. And four bullets points down, it says,  
11 "Depending on current year position to market it may  
12 take a few years to reach the base pay goals."

13 Do you see that?

14 A. Yes.

04:25 15 Q. What does that mean?

16 A. It means that just because we have a  
17 change in strategy doesn't mean we implement it  
18 immediately.

19 Q. So the first bullet point says, "If behind  
04:25 20 the goals, a few focal cycles, (e.g., two to three  
21 years) to catch the market, i.e., the three-year SMA  
22 strategy kicked off in 2006."

23 Do you see that?

24 A. Yes.

04:25 25 Q. And what was the SMA strategy kicked off

04:25 1 in 2006?

2 A. So that was the change in the base pay  
3 strategy to be at market versus behind market. So  
4 when they decided to move base pay to market, the  
04:25 5 decision was to do that over a three-year period,  
6 not do it in a one-year move.

7 Q. The next bullet point says, "However, hot  
8 jobs may require an immediate fix to address market  
9 position issues."

04:26 10 Do you see that?

11 A. Yes.

12 Q. And is that consistent with your  
13 understanding of how SMAs would work?

14 MR. SHAH: Object to form.

04:26 15 A. Yeah. A job where the market for that job  
16 was moving faster than other jobs and so our market  
17 position was deteriorating. Those would be  
18 candidates for SMA.

19 Q. We talked about POM, or position of  
04:26 20 market, earlier.

21 A. Yes.

22 Q. Can you define that?

23 A. Position of market would be your -- you  
24 take the -- let's say I was looking at it for grade  
04:27 25 5s in the US. I would take the average pay of Intel

04:27 1 grade 5s and divide it by the market median to get a  
2 position of market. So 100 percent would be our pay  
3 was at market with the midpoint.

4 Q. You can put this document aside. Let's go  
04:27 5 off the record for five minutes.

6 (A discussion was held off the record.)

7 (Recess from 4:27 p.m. to 4:40 p.m.)

8 Q. Mr. McKell, is there any reason why you  
9 can't continue to give me your best testimony?

04:40 10 A. No.

11 Q. Okay. You use the term "internal equity"  
12 at Intel?

13 A. Yes.

14 Q. What does it mean?

04:40 15 MR. SHAH: Object to form.

16 A. Internal equity means fairness.

17 Typically, when we talk about internal equity, it's  
18 how employees are paid relative to each other. It  
19 can also be part of that -- "egalitarian" is another  
04:40 20 term that we would say -- so from an internal equity  
21 perspective, everybody participates in stock even  
22 though they have different grades. So it has  
23 multiple meanings depending on the specific context,  
24 but generally it means fairness.

04:41 25 Q. I hand you a document that has previously

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9 NO: Master Docket No. 11-CV-2509-LHK

10 REPORTER'S CERTIFICATE

11 I, MARY ABERNATHY SEAL, New Mexico CCR  
12 #69, DO HEREBY CERTIFY that on March 20, 2013, the  
13 Deposition of DANIEL ROBERT McKELL was taken before  
me at the request of, and sealed original thereof  
retained by:

14 Attorney for the Plaintiffs  
15 Ms. Sarah R. Schalman-Bergen  
16 BERGER & MONTAGUE, P.C.  
17 1622 Locust Street  
18 Philadelphia, Pennsylvania 19103-6365  
19 (215) 875-3000

20 I FURTHER CERTIFY that copies of this  
21 Certificate have been mailed or delivered to all  
22 Counsel, and parties to the proceedings not  
23 represented by counsel, appearing at the taking of  
the Deposition.

24 I FURTHER CERTIFY that examination of this  
transcript and signature of the witness was required  
by the witness and all parties present.

25 On \_\_\_\_\_ a letter was mailed or delivered to Mr.  
Sujal J. Shah regarding obtaining signature of the  
witness, and corrections, if any, were appended to  
the original and each copy of the Deposition.

1                   I FURTHER CERTIFY that the recoverable  
2 cost of the original and one copy of the Deposition,  
3 including exhibits, to Mr. Sarah R. Schalman-Bergen  
4 is \$\_\_\_\_\_.

5                   I FURTHER CERTIFY that I did administer  
6 the oath to the witness herein prior to the taking  
7 of this Deposition; that I did thereafter report in  
8 stenographic shorthand the questions and answers set  
9 forth herein, and the foregoing is a true and  
10 correct transcript of the proceeding had upon the  
11 taking of this Deposition to the best of my ability.

12                  I FURTHER CERTIFY that I am neither  
13 employed by nor related to nor contracted with  
14 (unless excepted by the rules) any of the parties or  
15 attorneys in this case, and that I have no interest  
16 whatsoever in the final disposition of this case in  
17 any court.

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Mary Abernathy Seal  
BEAN & ASSOCIATES, INC.  
NM Certified Court Reporter #69  
License Expires: 12/31/13

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(6941K) MAS  
Date taken: March 20, 2013  
Proofread by: JB

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1 IN RE: HIGH-TECH EMPLOYEE ANTITRUST LITIGATION

2 WITNESS SIGNATURE/CORRECTION PAGE

3 If there are any typographical errors to  
your deposition, indicate them below:

5 | PAGE LINE

6 \_\_\_\_\_ Change to \_\_\_\_\_

7 \_\_\_\_\_ Change to \_\_\_\_\_

8 \_\_\_\_\_ Change to \_\_\_\_\_

9 \_\_\_\_\_ Change to \_\_\_\_\_

10 Any other changes to your deposition are  
11 to be listed below with a statement as to the reason  
for such change.

12 | PAGE LINE CORRECTION | REASON FOR CHANGE

13

14

15

16

17 | Page

18 | Page

19 I, DANIEL ROBERT McKELL, do hereby certify  
20 that I have read the foregoing pages of my testimony  
as transcribed and that the same is a true and  
correct transcript of the testimony given by me in  
21 this deposition on March 20, 2013, except for the  
changes made.

24 (6941K) MAS Proofread by: JB